



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The landlord originally applied for an order of possession for unpaid rent or utilities and for a monetary order unpaid rent or utilities through the Direct Request process.

On July 27, 2015 an Adjudicator wrote an interim decision adjourning the landlord's original Application for Dispute Resolution submitted through the Direct Request process to a participatory hearing scheduled for this date, Friday, September 4, 2015 at 11:00 a.m., Pacific Time. The interim decision dated July 27, 2015 should be read in conjunction with this decision.

As the tenants did not attend the reconvened hearing, service of the original Application for Dispute Resolution by Direct Request was considered. The agent stated that the tenants vacated the rental unit on or before July 17, 2015 and that she could not confirm if the tenants were still residing at the rental unit as of July 17, 2015 as a result. Section 12 of the Residential Tenancy Branch Policy Guideline states that when serving tenants by registered mail with an Application for Dispute Resolution, the address for service must be where the tenants reside at the time of mailing or the forwarding address provided by the tenants.

Given the above, I am not satisfied based on the testimony from the agent that the tenants moved "on or before" July 17, 2015, that the tenants were still residing at the rental unit on July 17, 2015. In addition, I am not satisfied that the tenants would have received the Notice of Dispute Resolution Hearing documents sent from the Residential Tenancy Branch as those were addressed to the rental unit address and dated July 27, 2015, a date after the tenants had already vacated the rental unit.

The agent stated that the tenants have not provided a forwarding address to the landlord. The agent also stated that as the tenants vacated the rental unit on or before July 17, 2015, the landlord was no longer seeking an order of possession.

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing without having received the original Application for Dispute Resolution by Direct Request or subsequent Notice of a Dispute Resolution Hearing. Therefore, **I dismiss** the landlord's monetary claim for unpaid rent or utilities **with leave to reapply** as I am not satisfied that the tenants have been sufficiently served with the Application for Dispute Resolution by Direct Request or Notice of a Dispute Resolution Hearing. I note this decision does not extend any applicable time limits under the *Act*. I dismiss the landlord's application for an order of possession as that application is now moot given that the landlord has already obtained possession of the rental unit from the tenants.

Conclusion

The landlord's application for unpaid rent or utilities is dismissed with leave to reapply due to a service issue. The landlord's application for an order of possession is dismissed. This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 4, 2015

Residential Tenancy Branch

